

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

LARRY DEAN DUSENBERY,	:	CIVIL ACTION NO. 1:07-CV-1869
	:	
Plaintiff	:	(Judge Conner)
	:	
v.	:	
	:	
TODD CERNEY,	:	
	:	
Defendant	:	

ORDER

AND NOW, this 8th day of January, 2008, upon consideration of the report of the magistrate judge (Doc. 9), recommending that plaintiff's complaint be dismissed, to which no objections have been filed, and, following an independent review of the record, it appearing that plaintiff has failed to allege a valid due process violation because plaintiff's punishment was not atypical "in relation to the ordinary incidents of prison life," see Wilkinson v. Austin, 545 U.S. 209, 223 (2005) (quoting Sandin v. Conner, 515 U.S. 472, 484 (1995)), it is hereby ORDERED that:

1. The report and recommendation of the magistrate judge (Doc. 9) is ADOPTED.
2. The complaint (Doc. 1) is DISMISSED.
3. Leave to amend is DENIED as futile. See Grayson v. Mayview State Hosp., 293 F.3d 103, 108 (3d Cir. 2002).
4. Plaintiff's motion (Doc. 12), requesting service of the complaint and summons by the United States Marshal's Service, is DENIED as moot.
5. Any appeal from this order is DEEMED frivolous and not in good faith. See 28 U.S.C. § 1915(a)(3).

6. The Clerk of the Court is directed to CLOSE this case.

S/ Christopher C. Conner
CHRISTOPHER C. CONNER
United States District Judge